

United States District Court
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MICHAEL L. FOGARTY, et al.	§	
	§	
v.	§	CIVIL ACTION NO. 3:23-CV-2163-S-BK
	§	
COMMISSIONER, SOCIAL	§	
SECURITY ADMINISTRATION, et al.	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**


The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case. Subsequently, Plaintiff Michael L. Fogarty filed a notice of interlocutory appeal [ECF No. 12] and a Motion for Appellate Judge Review [ECF No. 14]. Because a magistrate judge's report and recommendation is not an appealable order, any appeal of such report and recommendation before the district judge rules is frivolous. *See Woodards v. Michaels Cos.*, No. 4:20-cv-00696-O-BP, 2020 WL 5775823, at *2 (N.D. Tex. Aug. 27, 2020) (citing *Hill v. Dall. Cnty. Dist. Att'y's Off.*, 676 F. App'x 339 (5th Cir. 2017)), *adopted by* 2020 WL 5760172 (N.D. Tex. Sept. 28, 2020). Therefore, the Court retains jurisdiction over the case despite Plaintiff's interlocutory appeal. *See id.*

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct, and they are **ACCEPTED** as the Findings and Conclusions of the Court.

Finally, the Court **TERMINATES** Plaintiff's Motion for Appellate Judge Review [ECF No. 14]. The Court lacks the authority to grant the relief that Plaintiff requests. Plaintiff may re-urge the Motion in the appellate court.

SO ORDERED.

SIGNED December 20, 2023.



UNITED STATES DISTRICT JUDGE